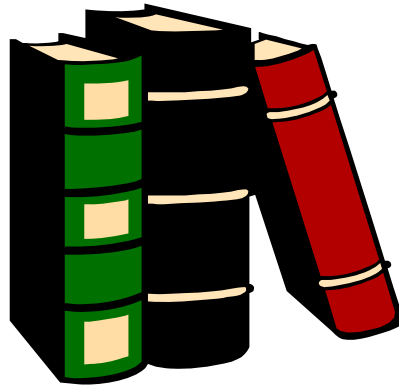


**EIGHTEENTH JUDICIAL CIRCUIT
SEMINOLE COUNTY
CIVIL/FAMILY DIVISION K**



**ADMINISTRATIVE
POLICIES AND PROCEDURES
GUIDELINES**

**JUDGE NANCY F. ALLEY &
JUDGE MARLENE M. ALVA**

The Chief Judge has implemented a case reassignment that takes effect June 1, 2012, which results in the transfer of all Division L civil cases to Division K. All Division K domestic cases will be transferred to Division L.

As Judge Alva will no longer be hearing domestic cases as of June 1, 2012, please note that any references in the practice and procedure manual to domestic matters no longer applies to Judge Alva after that date.

Thank you for your attention to this matter.

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HEARINGS

1. SCHEDULING: All parties are required to give a good faith assessment of the time needed for the hearing. If other parties are waiting for their hearing, and your case goes over the time limit, your hearing will be terminated and rescheduled for a subsequent hearing. 15, 30, or 60 minute hearing times are to be retrieved and scheduled online by using JACS. To use JACS, go to www.flcourts18.org, click on Calendars/Scheduling (JACS) on the left hand side of the home page, and click on the "Click Here" link for the instructions on how to schedule a hearing through JACS. 15 and 30 minute hearing times are usually in the afternoon and are placed on a cattle call docket (*many cases set at the same time*). 60 minute hearing times are time certain (*your case is the only case set at that time*) and are only set in the morning. A time certain hearing cannot be cancelled or continued once it is set online unless the issues that are set have settled and will not be brought up for a hearing on a later date. Please make sure when setting a time certain hearing that all parties/clients are available for the hearing date before you set it online. If you need a hearing for more than 1 hour, your motion will have to be placed on the trial docket by contacting the appropriate trial coordinator at the numbers listed on page 12 and 13. If you have two motions, each needing 1 hour each, you cannot set one motion at 9:30 a.m. and the other motion at 10:30 a.m. even if time is available. They must be set on different days or set on the trial docket for 2 hours.

Coordinating: Reasonable attempts need to be made to clear a date with opposing counsel before scheduling on JACS. Do not contact the JA to determine what a reasonable attempt is or how much time is reasonable, that must be determined by the attorney.

Coordinating w/Pro se parties: If the opposing party is pro se and a telephone number is listed on any of their pleadings, you must make two attempts on two different days to clear a hearing. A message needs to be left on both days requesting them to call your office by the end of that business day to coordinate the hearing. If at the end of the second business day you do not receive a call back, then you may set a hearing unilaterally, online, at least fourteen (14) days from the current date. If no phone number is listed in the Court file, then a hearing cannot be scheduled sooner than one month from the current date.

Once your hearing is set on JACS, you will receive a confirmation # on your screen & one will be sent to the email on record. You will need this confirmation # if you need to cancel or reschedule your hearing at a later date. Please do not send a copy of the Notice of hearing to the Judge, just file the original Notice in the Court file.

Motions: If you do not see the subject of your motion that you are trying to set for hearing listed in the drop down box when scheduling a hearing on JACS, choose any motion and then explain what motion you are really setting in the notes for the Judge box when setting up your hearing. The JACS will only allow you to select one motion in the drop down box. If you have more than one motion that you wish to address on that date, then the other motions need to be listed in the box that says "Additional Motions to be Addressed" when setting up your hearing. Please do not send a copy of the Motion to the Judge, just file the original in the Court file for the hearing.

Courtroom: Do not select a courtroom in the drop down box. Leave the box blank as is. The Judge holds hearings in different courtrooms and this will limit your search. Before selecting the data for your hearing, please make note of the courtroom in the courtroom column that the hearing will take place in for your Notice of Hearing. If you did not remember to look for the courtroom before scheduling the hearing, then you need to go to the 18th circuit website listed above and review Judge Alley's daily dockets and note the courtroom listed at the very top under 9:00 a.m. and next to Ex parte/Short matters.

2. TELEPHONIC HEARINGS: Motion hearings that are 15 minutes can be handled by telephone. If there will be testimony presented by any party, then the opposing party has to agree to the telephonic appearance before it can be set as one. The Judge will contact the attorney for the hearing and a phone number must be listed in the appropriate field in JACS. The attorney needs to stand by for 1 hour from the time the hearing is set for the Judge's phone call. If the **moving attorney** is appearing by phone, then the **proposed Order on their motion they are bringing before the Court with the copies and the self-addressed stamped envelopes are required to be sent to the Judge before the hearing or the hearing could be subject to cancellation.** The Judge does not need a Motion and Order to appear by phone. The Notice of Hearing must specify the attorney who is appearing by phone and their contact number. Please do not send a copy of the Notice of hearing to the Judge, just file the original in the court file.

3. CONTINUANCES: If a continuance of a hearing is requested by a party who did not set the hearing and the party who scheduled the hearing will not reschedule, then a motion for continuance may be presented at a noticed short matter hearing (*see below for procedures on setting Short matter hearings*) or set on JACS if any of the parties need to appear by phone (*see above procedures on Telephonic Hearings*).

The attorney who scheduled the hearing needs to go on the 18th Circuit Website and click the Available Hearing Times link, clear a new date with the opposing side and then log into JACS and choose the reschedule hearing link on the main menu. Type in your confirmation # and hit "Reschedule". Click the new coordinated date and the hearing will be rescheduled and you will receive a new confirmation # for your records. An Amended Notice of Hearing needs to be prepared and attach a copy of the confirmation page to your copy of the notice of hearing for your file. Please do not send a copy of the Amended Notice of hearing to the Judge, just file the original in the court file.

- 4. CANCELLING:** Only the party who scheduled the hearing can cancel the hearing. The attorney who scheduled the hearing needs to go on JACS and click "To cancel a Hearing" under the main menu. Enter your confirmation # and click "Cancel Hearing". You must follow up with the filing of a Notice of Cancellation in the court file. Attach a copy of the confirmation page to your Notice of Cancellation for your file. Please do not send a copy of the Notice of Cancellation to the Judge, just file the original in the court file.

- 5. CROSS NOTICING/PIGGY BACKING:** If you wish to add a motion to a previously set hearing date and do not need more time, you must contact the party who set the hearing and obtain permission to share their time. If you need additional time, you can either set a new hearing on JACS for that same date and time, if available, or have the party who set the original hearing cancel theirs and reschedule it for a timeslot with sufficient time for both hearings. Please make sure that Amended Notices and/or Cross Notice of Hearings are filed with the clerk to keep the file updated. Please do not send a copy of your Amended Notice or Cross Notice of Hearing to the Judge.

- 6. NOTICE OF HEARING:** A notice of hearing must specifically state the matter(s) to be heard. A notice of hearing that states "All Pending Motions" is a nullity. Any party scheduling a hearing MUST provide notice to the other parties even if defaulted by the Court. If a Guardian Ad Litem appointed in the case is not given notice of the hearing, the hearing may be subject to cancellation by the Court pending proper notice to the Guardian Ad Litem. Please do not send a copy of your Notice of Hearing to the Judge, just file the original with the clerk.

7. MATTERS NOT REQUIRING A HEARING: A matter does not require a hearing and may be submitted by mail if all parties are in agreement or a stipulation has been obtained. The Court requires that all mail contain a cover letter stating that opposing counsel has reviewed the proposed order and does not object. If no cover letter is provided indicating approval by the opposing side, the Court may take no action.

Some matters that do not require a hearing are as follows:

- Appointment of Special Process Server
- Appointment of Special Magistrate to hear UCD
- Stipulated Modifications
- Stipulated Orders
- Motion for Substitution of Counsel (Signed by Attorney and Party)
- Motion to Enter an Agreed Order
- Cancellation and rescheduling a foreclosure sale
- Motion to Vacate Foreclosure Judgment because of reinstatement
- Default judgment of *liquidated* amounts
- Motions to Withdraw (with signed consent from client)
- Uncontested Final Judgment for Dissolution of Marriage (with answer and waiver filed by respondent)

8. EMERGENCY HEARING: Do not drop-off or fax your emergency motion to the Judge. It will not be reviewed before the hearing. If you feel that your motion is an emergency (*An example of an emergency issue is a child "seriously" endangered*) and need the Judge to stop what they are doing to hold a hearing within 24 hours, then contact the JA to get a hearing date. If after the Judge hears your motion in Court and feels that it was not an emergency, then you will never get emergency hearing time before the Judge again.

Expedited: If you need a hearing within 5 business days then your motion is not an emergency but an expedited motion and you must contact the JA for hearing dates.

9. SHORT MATTERS/EX PARTE: Short Matters/Ex parte hearings are five minutes or less uncontested with no evidence or testimony and all parties must appear in person (*no telephonic appearances*). They are held Tuesday – Thursday at 9:00 a.m. with exceptions. Before you notice your hearing, check the JACS website on the web policies page or calendaring page to verify that they are being held that day and in which courtroom.

There will be no Motions to Dismiss, Compel Discovery, Summary Judgment, or Contempt heard during this time. Short matters/ex parte hearings are not scheduled on a docket so you do not schedule on JACS. Moving counsel is responsible for notifying the clerk prior to the hearing date and obtaining the Court file from the clerk's office. If you are *pro se* then you must contact the clerk and advise them you need the file brought to the Judge for the hearing. Unless the opposing side agrees to your motion and will not be appearing, it must be coordinated like any other hearing. Please do not send the Judge copies of Notice of Hearings.

10. TEMPORARY RELIEF FOR FAMILY CASES: Motions for Temporary Relief are scheduled before and conducted by the General Magistrate's office, (407) 665-4050. If the case has never been referred to the GM in the past (*from the time the case was first opened till now, regardless if you were the attorney at that time*) and you do not wish to have the GM hear the motion then an objection must be filed in writing. Before the hearing can be scheduled before the Judge, mediation must have occurred regarding the temporary issues. Temporary Relief hearings before the Judge will be limited to 1 hour.

If the case has been referred to the GM in the past for a previous issue and neither party objected to that hearing within the ten (10) day rule, then no party can object in the future to a hearing before the GM (*regardless if new attorneys have taken the case.*)

If a temporary relief hearing is set before the GM and this is the first hearing that has ever been referred to the GM and the opposing party objects within the ten (10) days, the objection must contain the agreed date and time for mediation or the objection is not a valid objection and the hearing will remain on the GM's docket (*Administrative Order 05-15S Amended*).

11. RULE/ORDER TO SHOW CAUSE: A verified Petition for Rule to Show Cause or a Petition for Order to Show Cause, with accompanying Affidavit, can either be presented at Short Matters/Ex Parte or can be forwarded by cover letter to the Court. If the Petition is granted at a short matter/ex parte hearing, the attorney may obtain a date for the Order to Show Cause by coming to talk to the JA. If the Petition is granted and has been mailed to the Court, the judicial assistant will contact your office to schedule the hearing.

12. CONTEMPT:

A. **Civil:** Motions for Contempt in civil cases are scheduled on JACS.

B. **Family:** Motions for Contempt in family cases are scheduled with the General Magistrate's office, (407) 665-4050. If the case has never been referred to the GM in the past (*from the time the case was first opened till now regardless if you were the attorney at that time*) and you do not wish to have the GM hear the motion then an objection must be filed in writing and then a hearing can be scheduled on JACS.

If the case has been referred to the GM in the past for a previous issue and neither party objected to that hearing within the ten (10) day rule then no party can object in the future to a hearing before the GM (*regardless if new attorneys have taken the case.*)

13. UNCONTESTED DISSOLUTIONS OF MARRIAGE: Uncontested Dissolutions of Marriage can either be heard on the short matter calendar, (*see the short matter section above for dates and times*) or can be mailed in. If the Final Judgment is mailed in, the cover letter needs to specify that all parties, *pro se* or opposing counsel, have reviewed the Final Judgment and have no objection. Also, if there are children involved, the Final Judgment needs to incorporate specifics on child support (*i.e. how much, how it is to be paid, & how often.*)

If both parties are *pro se* then they must fill out a Form A located on the 18th circuit website under Program/Services, Self Help (Represent Yourself) and hand deliver or mail to the Clerk of Court.

14. ADOPTIONS and TERMINATION OF PARENTAL RIGHTS

PENDING: These motions are set at short matters (*see the short matter section above for locating dates and times*). If both parties are *pro se* then they must fill out a Form A located on the 18th circuit website under Program/Services, Self Help (Represent Yourself) and hand deliver or mail to the Clerk of Court.

15. MOTION TO DISMISS/STRIKE (Fla.R.Civ.P. 1.140): These motions may be set on.

16. MOTION TO COMPEL DISCOVERY: If the party you are requesting discovery from has not filed any responses/objections to your request to produce, notice of interrogatories, or notice of taking deposition then a copy of the motion is to be sent to the Judge with (2)

sets of self-addressed stamped envelopes for all parties. The Judge will send out a letter to the party you are requesting discovery from asking them to file a response with the Court within 7 days as to why they have not complied with the rule. If no response is received, then the Judge will prepare and sign an Order Compelling. If the Judge receives a response from the other party, you will be contacted by the JA to set a hearing on JACS. If the moving party receives the discovery requested in their motion before the 7 days, notify the JA to keep an Order from being entered.

If you have received objections or partial answers to your discovery request, then you need to set a hearing on JACS on any available timeslot that you have coordinated with the opposing side.

17. MOTION TO WITHDRAW AS COUNSEL: If the attorney is able to obtain a signed consent from their client, then the proposed Order may be mailed in for signature along with a copy of the motion and signed consent. If a signed consent is unable to be obtained, then the motion is to be set at short matters with at least 5 days notice to the parties. If the attorney needs to appear by phone, then a hearing needs to be scheduled on JACS (*please review the procedures for telephonic hearings above.*) **The proposed Order allowing withdrawal of counsel must reflect the following:**

- a) The client's name, address and telephone number
- b) Statement that all pleadings are to be furnished to the client
- c) Statement that the client is responsible for notifying the Clerk, in writing, within (5) days of any changes of address.

18. RESIDENTIAL FORECLOSURE CASES: Only Motions for Summary Judgment are to be scheduled on JACS under the Seminole Cnty Circuit Fore calendar. All other motions regarding foreclosures should be set before the judge the case is assigned to.

19. MOTION FOR REHEARING/RECONSIDERATION: Once a Motion for Rehearing/Reconsideration is filed with the Clerk's office, the file is brought up to the Judge for review. The Judge will either make a ruling on the motion, without a hearing, and copies will be sent out or the JA will contact your office to let you know to set a hearing on JACS. Do not set a hearing unless you receive approval first. The hearing is not the rehearing of the issue but an opportunity for the parties to argue the motion before the Court.

20. PETITION TO RELOCATE: Pursuant to §61.13001, F.S. the following information must be included in the Petition and signed under oath under penalty of perjury:

1. A description of the location of the intended new residence, including state, city, and specific physical address if known.
2. The mailing address of the intended new residence, if not the same as the physical address, if known.
3. The home telephone number of the intended new residence, if known.
4. The date of the intended move or proposed relocation.
5. A detailed statement of the specific reasons for the proposed relocation of the child. If one of the reasons is based upon a job offer which has been reduced to writing, that written job offer must be attached to the Notice of Intent to Relocate.
6. A proposal for the revised post-relocation schedule of time-sharing together with a proposal for the post-relocation transportation arrangements necessary to effectuate time-sharing with the child.
7. Substantially the following statement, in all capital letters and in the same size type, or larger, as the type in the remainder of the petition:

A RESPONSE TO THE PETITION OBJECTING TO RELOCATION MUST BE MADE IN WRITING, FILED WITH THE COURT, AND SERVED ON THE PARENT OR OTHER PERSON SEEKING TO RELOCATE WITHIN 20 DAYS AFTER SERVICE OF THIS PETITION TO RELOCATE. IF YOU FAIL TO TIMELY OBJECT TO THE RELOCATION, THE RELOCATION WILL BE ALLOWED, UNLESS IT IS NOT IN THE BEST INTERESTS OF THE CHILD, WITHOUT FURTHER NOTICE AND WITHOUT A HEARING.

If an objection has been filed within 20 days, a hearing is to be set within 14 days of the filing of the objection. A hearing cannot be set until an objection has been filed. If no time is available on JACS then contact the JA to get hearing time. The party/attorney is to clear the dates provided by the JA with the opposing side. If the opposing side is not available on those dates provided, then they have to provide date(s) they are available during that 14 day period for the hearing.

If no objection is filed within the 20 days, the moving party is to send the Judge the proposed Order titled "Order Approving Relocation and Modifying Time Sharing" and the Order has to repeat the proposed time-sharing schedule.

21. MOTION FOR CHILD PICK-UP ORDER: Without notice, a copy of the motion with justification for lack of notice must be provided to the Judge either by hand delivery or by mail with the approved proposed Order. The Order must have the heading, case number, division, and the parties' names filled out. If the Judge enters the Order on an ex parte basis, a certified copy can be obtained through the Clerk's office for service and a return hearing will be indicated on the Order as to the date and time for the parties to appear in Court to present evidence.

The Judge may deny the ex parte request but will set a hearing and will either notify you with a verbal denial or by an Order denying. A hearing will be set on an expedited basis within 14 days and the moving party will be responsible for preparing the Notice of Hearing.

22. PROPOSED ORDERS: All proposed orders must be accompanied by a cover letter stating either that opposing counsel has no objection to the form of the order or that the parties do not agree and opposing counsel will be sending in their proposed order, copies for all parties, and self-address stamped envelopes for all parties to the Court.

Objections: Do not ask opposing counsel to contact the Judge's office with objections to a proposed order. If opposing counsel has been forwarded a copy of the proposed order, but has not responded within a reasonable time frame, you may forward the proposed order to the Court with a cover letter stating the steps you have taken if the motion was already heard before the Court. If the motion has not been heard before the Court and you have not received a response from opposing counsel as to their position, then a hearing must be set. If the attorneys cannot agree on a proposed Order from a hearing, then the attorneys are to each submit their proposed order to the court for the Judge to determine which one reflects her ruling. Hearings are not to be set on this issue.

Opposing side Pro se: If the other party is *pro se*, a copy of the proposed order is to be sent simultaneously to the *pro se* party and to the Court with a cover letter stating that the *pro se* party must voice any objections in writing to the Court within 5 days.

23. MOTIONS FOR JUDICIAL DEFAULT: Motions for judicial default will not be signed without a hearing. If you are unable to obtain a clerk's default then a hearing must be set either at short matters if the moving party can appear in person or on JACS if the moving party needs to appear by phone. (*See rules above on telephonic hearings.*)

24. FINAL JUDGMENTS OF DISSOLUTION OF MARRIAGE:

The final judgment must contain the following:

(a) Appropriate paragraphs relating to any child issues, for example, support, time sharing, abatement of support, etc., if any. The final judgment can not merely ratify and confirm the agreement. It must specifically state what is also in the agreement.

(b) Signature page must contain text. It cannot only contain the "DONE AND ORDERED" clause or a line for the judge's signature.

(c) Certification that conformed copies are being forwarded to all counsel and pro se parties, giving their names and addresses and a place for the judicial assistant to sign and date.

(d) A separate sheet with identification information of the parties - name, address, and the last four (4) digits of their social security number, as well as name and date of birth of children.

(e) A separate paragraph regarding payments which are to be through the Clerk's office similar to the following:

The husband/wife, _____ whose address is _____, shall pay child support in the amount ____ per _____, commencing _____, and on the ____ of each month thereafter, to the Clerk of the Circuit Court, Support Division, Seminole County Courthouse, Sanford, Florida (mailing address: P. O. Box 819, Sanford, FL 32772-0819), together with the statutory service charge of 4% of the payment or \$5.25 whichever is less. Payment shall be made in the form of cash, cashier's check, certified check, money order, or other payment form acceptable to the Clerk, and must include the case number, name of the payer and payee for proper identification.

Child Support payments shall continue until the minor child(ren) reach the age of 18 years, marries, dies, becomes emancipated, or otherwise ordered by this court, whichever event shall occur first.

The Clerk of the Circuit Court is instructed to forward any payments received to the husband/wife, _____ whose address is _____.

Each party shall inform the other and the Clerk of the Circuit Court immediately of any change of name or address,

(f) If there are matters that cannot be completed by the final judgment or are ongoing, such as alimony, child support, security, etc., then the final judgment shall contain a statement that each party shall keep the other party advised of their current address and telephone number.

(g) All final judgments of dissolution of marriage shall be accompanied by a final disposition form.

The attorney preparing the final judgment is to submit the proposed final judgment to opposing counsel for approval as to form and content prior to submission to the court. All final judgments are to be accompanied by a cover letter stating opposing counsel has approved the form of the order. This applies whether the proposed order is hand delivered to the judge's office or mailed. If the attorneys cannot agree on the order, then a hearing is to be scheduled.

TRIALS

A. FAMILY DIVISION:

FAMILY COORDINATOR:

Sandy Gorman (407) 665-4222

(Contract regarding: Pre-trial Conferences & Trials)

Notice For Trial: A Notice For Trial stating that the cause is at issue must be filed with the Clerk's office, accompanied by stamped, self addressed envelopes to all counsel of record or pro se parties. If envelopes do not accompany the Notice for Trial the Court will take no action. The notice shall include an estimate of the time required, whether the trial is to be by a jury or not, and whether the trial is on the original action or a subsequent proceeding. The case will then be forwarded to the **Family Division Coordinator** for review.

ALL CONTESTED CASES WILL BE REQUIRED TO ATTEND AND COMPLETE A MEDIATION SESSION

Pretrial Conference: Orders Requiring Mediation, Setting Pre-Trial Conference and Trial Date will be entered by the Court. Pretrial Conferences will be conducted telephonically. Parties are to be available for at least one (1) hour from the stated time for a phone call from the Court. If the party is *pro se*, they must contact the trial coordinator before the pre-trial conference with a phone number. A time certain trial time will be given during the pretrial conference. If it becomes necessary to place a case on the trial docket as a back up, the parties will be notified of

the actual time of trial no less than 24 hours prior to trial time. The court will not address any pending motions at this time.

Case Management Conference: A Case Management Conference will be set if both parties are Pro Se. The Case Management Conference will be conducted by the General Magistrate's Office. The General Magistrate will determine the status of the case, order the parties to attend mediation and ensures the parties meet full compliance with Florida Statutes Chapter 61 prior to trial.

B. CIVIL DIVISION:

CIVIL COORDINATOR:

Kelley Rowland (407) 665-4203

(Contact regarding: Case Managements, Pretrial Conferences, & Trials)

Notice For Trial: A Notice For Trial stating that the cause is at issue must be filed with the Clerk's office, accompanied by stamped, self addressed envelopes to all counsel of record or pro se parties. If envelopes do not accompany the Notice for Trial the Court will take no action. The notice shall include an estimate of the time required, whether the trial is to be by a jury or not, and whether the trial is on the original action or a subsequent proceeding. The case will then be forwarded to the **Civil Division Coordinator** for review. The court will issue an Order Setting Case Management Conference which is required for all cases requiring one day or more to complete. Cases requiring less time will simply be placed on a one or two week trial docket.

Case Management Conference: The trial coordinator will conduct a Case Management Conference telephonically to determine the exact status of the case. Parties are to be available for at least one (1) hour from the stated time for a phone call from the trial coordinator. *Pro se* parties must contact the trial coordinator before the case management conference with a phone number if they wish to appear by phone. Parties will be required to strictly adhere to the Order Setting Case Management Conference. The trial coordinator may, at the time of the conference, schedule expert disclosure deadlines and/or set a Pretrial Conference and trial date.

Pretrial Conference: Pretrial Conferences are automatically set for any case requiring more than one day. If less time is required, a pretrial conference will have to be requested at the time of noticing the case for trial. The court will expect full compliance with the

Order Setting Pretrial Conference and Trial Date. Unless specifically excused by the judge, all attorneys/parties are required to attend in person the pretrial conference, even if a time certain for trial has been set. The court may designate counsel to send written notice to opposing counsel or *pro se* party who did not appear at the pretrial conference. The court will not address any pending motions at this time.

C. MOTIONS TO CONTINUE PRE-TRIAL/TRIAL: Opposed Motions for Continuance of Case Management, Pre-Trial, and/or Trial must be heard at Short Matters/Ex Parte. Any motion for continuance must be made in writing, signed by counsel for the parties, and shall state when the cause will be ready for trial. In ruling upon such motions, the court will weigh the following factors:

- What are the legal grounds?
- When was the case filed?
- When was the case noticed for trial?
- When was the motion filed?
- Will the parties be prejudiced?
- Has the case been previously continued and if so how many times?
- Has there been compliance with the temporary support order?
- What is the condition of court's calendar?